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AN ACT  
RELATING TO INFRASTRUCTURE; ENACTING THE TRIBAL  
INFRASTRUCTURE ACT; CREATING A BOARD; PRESCRIBING POWERS AND  
DUTIES; CREATING A TRUST FUND; CREATING A PROJECT FUND;  
MAKING APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the  
"Tribal Infrastructure Act".

Section 2. FINDINGS AND PURPOSE.--

A. The legislature finds that:

(1) tribes lack basic infrastructure  
resulting in poor social, health and economic conditions of  
tribal communities whose members are citizens of New Mexico;

(2) adequate infrastructure such as water  
and wastewater systems, major water systems, electrical power  
lines, communications, roads, health and emergency response  
facilities and infrastructure needed for economic development  
are essential to improved health, safety and welfare of all  
New Mexicans, including residents of tribal communities;

(3) local tribal efforts and resources have  
been insufficient to develop and maintain a consistent and  
adequate level of infrastructure in tribal communities;

(4) addressing the urgent need of replacing,  
improving and developing tribal infrastructure through the

1 use of an alternative financing mechanism is a long-term cost  
2 savings benefit to both the state and the tribes;

3 (5) adequate infrastructure development on  
4 tribal land will allow tribal members to achieve the basic  
5 conditions necessary to improve the quality of their lives;  
6 and

7 (6) much revenue is realized from tribal  
8 lands for the state general fund and for other state funds.

9 B. The purposes of the Tribal Infrastructure Act  
10 are to:

11 (1) ensure adequate financial resources for  
12 infrastructure development for tribal communities;

13 (2) provide for the planning and development  
14 of infrastructure in an efficient and cost-effective manner;

15 (3) develop infrastructure in tribal  
16 communities to improve the quality of life and encourage  
17 economic development; and

18 (4) encourage partnerships between the  
19 state, the federal government, Indian nations, tribes and  
20 pueblos and private entities in the development of  
21 infrastructure for tribal communities.

22 Section 3. DEFINITIONS.--As used in the Tribal  
23 Infrastructure Act:

24 A. "board" means the tribal infrastructure board;

25 B. "department" means the Indian affairs

1 department;

2 C. "financial assistance" means providing grants  
3 or loans on terms and conditions approved by the board;

4 D. "governor" means the governor of New Mexico;

5 E. "project fund" means the tribal infrastructure  
6 project fund;

7 F. "qualified project" means a tribal  
8 infrastructure project selected by the board for financial  
9 assistance pursuant to the Tribal Infrastructure Act;

10 G. "tribe" means a federally recognized Indian  
11 nation, tribe or pueblo located wholly or partially in New  
12 Mexico or any of its governmental entities or subdivisions;  
13 and

14 H. "trust fund" means the tribal infrastructure  
15 trust fund.

16 Section 4. TRIBAL INFRASTRUCTURE BOARD CREATED.--

17 A. The "tribal infrastructure board" is created  
18 and is administratively attached to the department.

19 B. The board shall consist of seven voting members  
20 and eight non-voting members.

21 C. Three of the voting members are:

22 (1) the secretary of Indian affairs, or the  
23 secretary's designee from the department;

24 (2) the secretary of finance and  
25 administration or the secretary's designee from the

1 department of finance and administration; and

2 (3) the executive director of the New Mexico  
3 finance authority or the executive director's designee from  
4 the New Mexico finance authority.

5 D. The following four voting members who have  
6 experience with capital projects development or  
7 administration shall be appointed by the governor:

8 (1) one person who is a member of a pueblo;

9 (2) one person who is a member of the  
10 Jicarilla Apache Nation or the Mescalero Apache Tribe, who  
11 shall serve on an alternating basis;

12 (3) one person who is a member of the Navajo  
13 Nation; and

14 (4) one person who is a citizen of New  
15 Mexico and who has education and experience in the fields of  
16 finance and development of capital projects.

17 E. There shall be eight non-voting members as  
18 follows:

19 (1) one representative from the federal  
20 bureau of Indian affairs, Albuquerque area office, designated  
21 by the regional director;

22 (2) one representative from the federal  
23 bureau of Indian affairs, Navajo area office, designated by  
24 the regional director;

25 (3) one representative from the Albuquerque

1 area Indian health services designated by the area director;

2 (4) one representative from the Navajo area  
3 Indian health services designated by the area director; and

4 (5) one representative from the Navajo  
5 tribal utility authority appointed by its governing board;  
6 and

7 (6) one representative of a New Mexico rural  
8 electric cooperative, appointed by the governor;

9 (7) one member of the house of  
10 representatives, appointed by the New Mexico legislative  
11 council, who is a member of the interim legislative Indian  
12 affairs committee; and

13 (8) one member of the senate, appointed by  
14 the New Mexico legislative council, who is a member of the  
15 interim legislative Indian affairs committee.

16 F. The board shall meet at the call of the chair,  
17 who shall be one of the legislative appointees, or whenever  
18 four voting members submit a request in writing to the chair,  
19 but not less than twice each calendar year. A majority of  
20 members constitutes a quorum for the transaction of business.  
21 The affirmative vote of at least a majority of a quorum shall  
22 be necessary for an action to be taken by the board.

23 G. Each appointed member of the board serve a  
24 two-year term. Vacancies shall be filled by appointment for  
25 the remainder of the unexpired term.

1           H. Members of the board appointed by the governor  
2 may receive per diem and mileage as provided for non-salaried  
3 public officers in the Per Diem and Mileage Act and shall  
4 receive no other compensation, perquisite or allowance.

5           Section 5. BOARD--DUTIES.--The board shall:

6           A. adopt rules governing terms, conditions and  
7 priorities for providing financial assistance to tribes,  
8 including developing application and evaluation procedures  
9 and forms and qualifications for applicants and for projects;

10           B. provide financial assistance to tribes for  
11 qualified projects on terms and conditions established by the  
12 board;

13           C. authorize funding for qualified projects,  
14 including:

15                   (1) planning, designing, constructing,  
16 improving, expanding or equipping water and wastewater  
17 facilities, major water systems, electrical power lines,  
18 communications infrastructure, roads, health infrastructure,  
19 emergency response facilities and infrastructure needed to  
20 encourage economic development;

21                   (2) developing engineering feasibility  
22 reports for infrastructure projects;

23                   (3) inspecting construction of qualified  
24 projects;

25                   (4) providing special engineering services;

1 (5) completing environmental assessments or  
2 archaeological clearances and other surveys for  
3 infrastructure projects;

4 (6) acquiring land, easements or rights of  
5 way; and

6 (7) paying legal costs and fiscal agent fees  
7 associated with development of qualified projects.

8 Section 6. TRIBAL INFRASTRUCTURE TRUST FUND--CREATED--  
9 INVESTMENT--DISTRIBUTION.--

10 A. The "tribal infrastructure trust fund" is  
11 created in the state treasury. The trust fund shall consist  
12 of money that is appropriated, donated or otherwise accrues  
13 to it. Money in the trust fund shall be invested by the  
14 state investment officer in the manner that land grant  
15 permanent funds are invested pursuant to Chapter 6, Article 8  
16 NMSA 1978. Income from investment of the trust fund shall be  
17 credited to the fund. Money in the trust fund shall not be  
18 expended for any purpose, but an annual distribution from the  
19 trust fund shall be made to the project fund pursuant to this  
20 section.

21 B. On July 1 of each year in which adequate money  
22 is available in the trust fund, an annual distribution shall  
23 be made from the trust fund to the project fund in the amount  
24 of ten million dollars (\$10,000,000) until the distribution  
25 is less than an amount equal to four and seven-tenths percent

1 of the average of the year-end market values of the trust  
2 fund for the immediately preceding five calendar years.  
3 Thereafter, the amount of the annual distribution shall be  
4 four and seven-tenths percent of the average of the year-end  
5 market values of the trust fund for the immediately preceding  
6 five calendar years.

7 Section 7. TRIBAL INFRASTRUCTURE PROJECT FUND--  
8 CREATED--PURPOSE--APPROPRIATIONS.--

9 A. The "tribal infrastructure project fund" is  
10 created in the state treasury and:

11 (1) the department of finance and  
12 administration shall administer the project fund;

13 (2) the project fund shall consist of:

14 (a) distributions made to it from the  
15 trust fund;

16 (b) payments of principal and interest  
17 on loans for qualified projects;

18 (c) other money appropriated by the  
19 legislature or distributed or otherwise allocated to the  
20 project fund for the purpose of supporting qualified  
21 projects; and

22 (d) income from investment of the money  
23 in the project fund that shall be credited to the project  
24 fund;

25 (3) balances in the project fund at the end

1 of a fiscal year shall not revert to the trust fund or to the  
2 general fund; and

3 (4) the project fund may consist of  
4 subaccounts as determined to be necessary by the department  
5 of finance and administration.

6 B. The department of finance and administration  
7 may establish procedures and adopt rules as required to  
8 administer the project fund and to originate grants or loans  
9 for qualified projects approved by the board.

10 C. Beginning in fiscal year 2006 and in subsequent  
11 years, the lesser of one percent of the project fund or one  
12 hundred thousand dollars (\$100,000) is appropriated from the  
13 project fund to the department of finance and administration  
14 for expenditure in the fiscal year in which it is  
15 appropriated, to administer the project fund. Any unexpended  
16 or unencumbered balance remaining at the end of any fiscal  
17 year shall revert to the project fund.

18 D. Beginning in fiscal year 2006 and in each  
19 subsequent year, the lesser of five percent of the project  
20 fund or five hundred thousand dollars (\$500,000) is  
21 appropriated from the project fund to the Indian affairs  
22 department for expenditure in the fiscal year in which it is  
23 appropriated to administer the Tribal Infrastructure Act, to  
24 pay per diem and mileage as required by that act and for  
25 operation of the board. Any unexpended or unencumbered

1 balance remaining at the end of any fiscal year shall revert  
2 to the project fund.

3 E. The balance in the project fund not otherwise  
4 appropriated in this section is appropriated to the  
5 department of finance and administration for expenditure in  
6 fiscal year 2006 and in subsequent fiscal years to carry out  
7 the provisions of the Tribal Infrastructure Act by providing  
8 grants or loans for qualified projects. Any unexpended or  
9 unencumbered balance remaining at the end of a fiscal year  
10 shall revert to the project fund.

11 Section 8. LEGISLATIVE OVERSIGHT--RULE REVIEW--  
12 REPORT.--

13 A. Rules proposed by the board and the department  
14 of finance and administration pursuant to the Tribal  
15 Infrastructure Act shall be reviewed by the legislative  
16 interim Indian affairs committee prior to approval.

17 B. The legislative interim Indian affairs  
18 committee shall be briefed by the board on grant and loan  
19 proposals submitted to the board and shall review the list of  
20 grants and loans made by the board.

21 C. The board shall report to the legislative  
22 interim Indian affairs committee no later than October 1 of  
23 each year regarding the total expenditures from the project  
24 fund for the previous fiscal year, the purposes for which  
25 expenditures were made, an analysis of the progress of the

1 projects funded and proposals for legislative action in the  
2 subsequent legislative session. \_\_\_\_\_

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